

SAN FRANCISCO BAY CONSERVATION AND DEVELOPMENT COMMISSION

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April 18, 2014

TO: Commissioners and Alternates
FROM: Lawrence J. Goldzband, Executive Director (415/352-3653 lgoldzband@bcdc.ca.gov)
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SUBJECT: Staff Report and Recommendation on SB 1184
(For Commission consideration on May 1, 2014)

Summary and Recommendation

The staff recommends that the Commission support and sponsor Senate Bill 1184 (attached) introduced by Senator Loni Hancock. SB 1184 directs the Commission to prepare a regional shoreline resilience strategy for the San Francisco Bay in close collaboration with the Joint Policy Committee, the Coastal Conservancy, local governments, and other partners by 2018. The strategy is consistent with the Commission's strategic plan and its Climate Change Bay Plan policies, and also helps implement the Joint Policy Committee's work plan for a resilient shorelines strategy.

Background

SB 1184. Senator Loni Hancock introduced SB 1184 *San Francisco Bay Conservation and Development Commission: sea level rise: regional resilience strategy* after discussions between the Senator's staff and Commission staff regarding the Commission's work to address sea level rise and how the region can act to become resilient to rising sea level. The bill directs the Commission, by 2018, to "prepare a regional strategy to address sea level rise in collaboration with affected regional and local governments and appropriate state and federal agencies." The main goal of the resilience strategy "shall be to increase San Francisco Bay area preparedness and resilience to climate change impacts by reducing the flood risk to valuable shoreline development and protecting wetlands, transitional habitats, and bay-related wildlife."

The bill provides for two main components: (1) local community planning undertaken with local governments to increase resilience; and (2) a regional assessment of shoreline vulnerabilities and a planning process "to identify and develop adaptation options necessary at the regional scale." The planning process will address a series of goals and objectives that are essentially identical to those contained in the Commission's Climate Change Policy 6 (adopted as part of the Commission's Climate Change Bay Plan Amendments) regarding the preparation of a regional strategy to adapt to rising sea level. The legislation directs the Commission to prepare the regional strategy "in collaboration with local partners and existing regional and community efforts," and in close coordination with the Bay Area Joint Policy Committee, the State Coastal Conservancy, the Ocean Protection Council, and the Office of Planning and Research. The plan shall be prepared so that it may be adopted as the resiliency component in future updates of the Bay Area's Sustainable Communities Strategy (pursuant to SB 375).



Making San Francisco Bay Better

SB 1184 will be heard in the Senate Local Government Committee on April 22, 2014. The East Bay Municipal Utility District has taken a position of support. The Bay Planning Coalition and The Nature Conservancy each has taken a position of "support if the bill is amended," and the staff is discussing with both organizations potential clarifying amendments. Commission staff believes that the Coalition and The Nature Conservancy will be able to come together in the near future and agree on such language. Chair Wasserman submitted a letter of support for the bill citing its consistency with the Commission's policies and program to address rising sea level.

The community planning component of SB 1184 is consistent with, and will further, the Commission's Adapting to Rising Tides Program. The second component of the bill is consistent with and implements Policy 6 of the Commission's Bay Plan climate change policies. Policy 6 calls for the Commission to prepare a regional strategy for adapting to rising sea level in collaboration with the JPC, local governments, other regional, state and federal agencies and the general public. It also implements the work plan of the JPC to develop a regional resilience strategy, and the Commission's work with the staffs of the state Coastal Conservancy and the Association of Bay Area Governments to coordinate and integrate resiliency planning.

The Commission's Strategic Plan states that one of its fundamental work activities and a major discretionary initiative is to "lead efforts to help the Bay Area adapt to rising sea level, in concert with the Joint Policy Committee, local governments, and others." Goal 1, Objective 1 of the strategic plan states: "Pioneer policies and actions that take advantage of and reduce risks caused by the changing Bay, including rising sea level." Goal 2, Objective 1 states: "Use BCDC's unique mission and broad representation to advance integrated local, regional, statewide, and national efforts, including those of the Joint Policy Committee." SB 1184 is consistent with, and will help achieve, these objectives.

Just as SB 1184 furthers the Commission's Strategic Plan, the Bay Plan, and the JPC work plan, it also recognizes that this effort should be closely coordinated and prepared collaboratively with local governments, regional and state partners, and other interested parties.

Recommendation. For these reasons, the staff recommends that the Commission support and sponsor SB 1184.

AMENDED IN SENATE MARCH 24, 2014

SENATE BILL

No. 1184

Introduced by Senator Hancock

February 20, 2014

An act to add Section 66649 to the Government Code, relating to the San Francisco Bay Conservation and Development Commission.

LEGISLATIVE COUNSEL'S DIGEST

SB 1184, as amended, Hancock. San Francisco Bay Conservation and Development Commission: sea level rise: regional resilience strategy.

Existing law, the McAteer-Petris Act, establishes the San Francisco Bay Conservation and Development Commission, and requires the commission to regulate fill and development within a specified area in and along the shoreline of the San Francisco Bay area, and to implement comprehensive plans for the preservation and protection of the San Francisco Bay and the Suisun Marsh. Existing law authorizes the commission to develop regional strategies for addressing the impacts of, and adapting to, the effects of sea level rise and other impacts of global climate change on the San Francisco Bay and affected shoreline areas.

This bill would require the commission, in collaboration with various other state, regional, and local government agencies, to take action to protect San Francisco Bay area residents from potential ~~innundation~~ *inundation* and flooding resulting from sea level rise by preparing a regional resilience strategy for adapting to rising sea levels in the San Francisco Bay, containing specified components. The bill would require the commission, no later than December 31, ~~2015~~, *2018*, to complete

the strategy and submit to the Legislature its recommendations for future actions to be taken regarding sea level rise.

Vote: majority. Appropriation: no. Fiscal committee: yes. State-mandated local program: no.

The people of the State of California do enact as follows:

1 SECTION 1. The Legislature finds and declares all of the
2 following:

3 (a) The San Francisco Bay Conservation and Development
4 Commission is a state agency with responsibility for
5 comprehensively managing the conservation and development of
6 the San Francisco Bay and its shoreline, and the protection and
7 preservation of the Suisun Marsh. The commission carries out this
8 responsibility under the provisions of the McAteer-Petris Act (Title
9 7.2 (commencing with Section 66600) of the Government Code)
10 (MPA), the policies of the San Francisco Bay Plan (Bay Plan), the
11 Suisun Marsh Preservation Act of 1977 (Division 19 (commencing
12 with Section 29000) of the Public Resources Code) (SMPA), and
13 policies of the Suisun Marsh Protection Plan (Marsh Plan).

14 (b) The commission is composed of 27 members, appointed by
15 a variety of authorities, including the Governor, the Speaker of the
16 Assembly, the Senate Committee on Rules, the boards of
17 supervisors of each of the nine San Francisco Bay area counties,
18 the Association of Bay Area Governments, the Transportation
19 Agency, the Department of Finance, the State Lands Commission,
20 the Natural Resources Agency, the San Francisco Bay Regional
21 Water Quality Control Board, the United States Army Corps of
22 Engineers, and the United States Environmental Protection Agency.

23 (c) The commission’s large and diverse membership, which
24 includes representatives from diverse interests in the San Francisco
25 Bay area, allows the commission to serve as a coordinator for
26 affected agencies and the public, where the public and those
27 agencies can collaborate and communicate their interests and
28 perspectives, and reach consensus on how to address critical issues
29 affecting the San Francisco Bay.

30 (d) The Legislature has directed the commission to keep the
31 Bay Plan up to date so that it reflects the latest scientific research
32 on the San Francisco Bay and addresses emerging issues that could
33 impact the bay in the future. To accomplish this, the Legislature

1 has empowered the commission to amend the Bay Plan if
2 two-thirds or 18 of the 27 members of the commission vote for
3 the amendment, after providing for public review and a public
4 hearing. Section 66652 of the Government Code authorizes the
5 commission to amend, or repeal and adopt a new form of all or
6 any part of, the Bay Plan, but requires that those changes be
7 consistent with the findings and declarations of the policy contained
8 in the MPA. Section 29202 of the Public Resources Code further
9 authorizes the commission to amend provisions of the SMPA.

10 (e) When the MPA, SMPA, Bay Plan, and Marsh Plan were
11 written, the commission was unaware of the dynamic forces driving
12 changes to the San Francisco Bay and the Suisun Marsh. In the
13 1960s and 1970s, the San Francisco Bay and the Suisun Marsh
14 were perceived as having static water levels that moved within
15 predictable, stable tidal ranges. In 1989, the commission first
16 recognized the potential effects of climate change and rising sea
17 level on the San Francisco Bay, and amended the Bay Plan to
18 incorporate changes to its safety of fills policies to ensure rising
19 sea level was integrated into the San Francisco Bay fill project
20 designs. However, a lack of scientific consensus and public
21 acknowledgment of the problem made implementation of these
22 policies difficult. By the mid-2000s, a scientific consensus had
23 emerged that global climate was changing due to anthropogenic
24 forces, and that these changes would lead to, among other things,
25 significant sea level rise over time.

26 (f) Pursuant to Section 66646.2 of the Government Code, the
27 commission has general authority to plan for sea level rise. The
28 commission's 2011 study of sea level rise found that potential
29 impacts could have profound effects on the bay's waterfront
30 communities, economic sustainability, and ecology. The
31 commission's regional assessment of the potential impacts to the
32 bay shoreline, entitled "Living with a Rising Bay: Vulnerability
33 and Adaptation in San Francisco Bay and on its Shoreline,"
34 identified the threat of global climate change and sea level rise on
35 the bay's shoreline communities and ecology and found that over
36 280 square miles of shoreline land and over 250,000 residents are
37 at risk of flooding at just moderate levels of sea level rise. The
38 assessment also estimated that approximately \$62,000,000,000
39 would be needed to replace flooded business and residential
40 structures as a result of sea level rise.

1 (g) When the commission amended the Bay Plan in 2011 to
2 address climate change and sea level rise, it included a policy
3 exhorting the region to formulate a regional sea level rise
4 adaptation strategy for protecting critical developed shoreline areas
5 and natural ecosystems, enhancing the resilience of the bay and
6 shoreline systems and increasing their adaptive capacity, and
7 specifying that the strategy should be prepared by the commission
8 in collaboration with the Bay Area Joint Policy Committee, other
9 regional, state, and federal agencies, local governments, and the
10 general public. The policy recommends, in part, that the strategy
11 incorporate an adaptive management approach and be consistent
12 with the goals of Chapter 728 of the Statutes of 2008 (SB 375),
13 and that the principles of the strategy be updated regularly to reflect
14 changing conditions and scientific information and include maps
15 of shoreline areas that are vulnerable to flooding based on
16 projections of future sea level rise and shoreline flooding, with
17 particular attention given to identifying and encouraging the
18 development of long-term regional flood protection strategies. In
19 addition, the policy states that, ideally, the regional strategy will
20 determine where and how existing development should be protected
21 and infill development encouraged, where new development should
22 be permitted, and where existing development should eventually
23 be removed to allow the bay to migrate inland.

24 (h) Currently, the state is dedicating resources to statewide sea
25 level rise adaptation planning in a manner that benefits the San
26 Francisco Bay through the California Environmental Protection
27 Agency's Office of Planning and Research, the Natural Resources
28 Agency's Ocean Protection Council, the State Coastal
29 Conservancy, and the State Lands Commission. The efforts of
30 these programs will provide valuable resources to help support the
31 San Francisco Bay area's regional efforts to prepare a regional
32 strategy to adapt to sea level rise.

33 SEC. 2. It is the intent of the Legislature that, in light of the
34 findings and declarations in Section 1, the commission shall prepare
35 a regional strategy to address sea level rise, in collaboration with
36 affected regional and local governments and appropriate state and
37 federal agencies.

38 SEC. 3. Section 66649 is added to the Government Code, to
39 read:

1 66649. (a) The commission shall, in collaboration with state,
2 regional, and local government agencies, take action to protect
3 San Francisco Bay area residents from potential inundation and
4 flooding resulting from sea level rise by preparing a regional
5 resilience strategy for adapting to rising sea levels in the San
6 Francisco Bay. The main goal of this resilience strategy shall be
7 to increase San Francisco Bay area preparedness and resilience to
8 climate change impacts by reducing the flood risk to valuable
9 shoreline development and protecting wetlands, transitional
10 habitats, and bay-related wildlife.

11 (b) The commission shall work with federal, state, regional, and
12 local partners to conduct shoreline adaptation planning, using
13 tested planning processes and tools, to formulate a regional
14 resilience strategy for the San Francisco Bay and surrounding areas
15 that are at risk that addresses flooding from rising sea level and
16 storms, and shall assist local governments to craft local strategies
17 to address the effects of sea level rise. The strategy shall include
18 two integrated components:

19 (1) Community or agency-based planning efforts undertaken
20 with local governments and special districts to increase the
21 resilience of specific shoreline areas and assets.

22 (2) A regional assessment of shoreline vulnerabilities and a
23 planning process to identify and develop adaptation options
24 necessary at the regional scale. Models, processes, and tools that
25 address communication, community engagement, and
26 decisionmaking will be used in collaboration with local partners
27 and existing regional and community efforts.

28 (c) Formulation of the regional resilience strategy shall, to the
29 extent possible, address all of the following goals and objectives:

30 (1) Advance regional public safety and economic prosperity by
31 protecting all of the following:

32 (A) Existing development that provides regionally significant
33 benefits.

34 (B) New shoreline development that is consistent with the San
35 Francisco Bay Plan and other applicable state policies.

36 (C) Infrastructure that is crucial to public health or the region's
37 economy, such as airports, ports, regional transportation,
38 wastewater treatment facilities, major parks, recreational areas,
39 and trails.

- 1 (2) Enhance the San Francisco Bay ecosystem by identifying
2 areas where tidal wetlands and tidal flats can migrate landward;
3 assuring adequate volumes of sediment for marsh accretion;
4 identifying conservation areas that should be considered for
5 acquisition, preservation, or enhancement; developing and planning
6 for flood protection; and maintaining sufficient transitional habitat
7 and upland buffer areas around tidal wetlands.
- 8 (3) Integrate the protection of existing and future shoreline
9 development and infrastructure with the enhancement of the San
10 Francisco Bay ecosystem, such as by using feasible shoreline
11 protection measures that incorporate natural bay habitat for flood
12 control and erosion prevention.
- 13 (4) Encourage innovative approaches to sea level rise adaptation,
14 particularly multiobjective adaptation strategies.
- 15 (5) Identify a framework for integrating the adaptation responses
16 of multiple government agencies.
- 17 (6) Integrate regional mitigation measures designed to reduce
18 greenhouse gas emissions with regional adaptation measures
19 designed to address the unavoidable impacts of climate change.
- 20 (7) Address environmental justice and social equity issues.
- 21 (8) Integrate hazard mitigation and emergency preparedness
22 planning with adaptation planning by developing techniques for
23 reducing contamination releases, structural damage, and toxic mold
24 growth associated with the flooding of buildings, and establishing
25 emergency assistance centers in neighborhoods at risk from
26 flooding and other mitigation measures.
- 27 (9) Advance regional sustainability, encourage infill
28 development and job creation, provide diverse housing served by
29 transit, and protect historical and cultural resources.
- 30 (10) Encourage the remediation of shoreline areas with existing
31 environmental degradation and contamination in order to reduce
32 risks to the San Francisco Bay's water quality in the event of
33 flooding.
- 34 (11) Identify and pursue research that supports adaptive
35 management of the strategy and that provides information useful
36 for planning and policy development on the impacts of climate
37 change on the San Francisco Bay, particularly those related to
38 shoreline flooding.
- 39 (12) Identify actions to prepare and implement the strategy,
40 including any needed changes in the law and policy.

1 (13) Identify mechanisms to provide information, tools, and
2 financial resources to enable local governments to integrate
3 regional climate change adaptation planning into local community
4 planning processes.

5 (d) The commission shall prepare the strategy in close
6 coordination with the Bay Area Joint Policy Committee, the State
7 Coastal Conservancy, the Ocean Protection Council, and the Office
8 of Planning and Research, and in such a way that the strategy may
9 be adopted as the shoreline resiliency component of the San
10 Francisco Bay area's sustainable communities strategy pursuant
11 to Section 65080.

12 (e) The commission shall, no later than December 31, ~~2015,~~
13 *2018*, complete the regional resilience strategy and shall submit
14 to the Legislature its recommendations for future actions to be
15 taken regarding sea level rise.

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